

Phil Wayt

From: Phil Wayt [mailto:phil@wbwba.com]
 Sent: Wednesday, June 11, 2003 12:34 PM
 To: All Wholesalers; Associate Members
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Subject: Legislative Update from Olympia, WA

WE WIN 2003 BEER TAX BATTLE

It's official, there will be no beer tax increase in Washington in the state's 2003-05 operating budget bill, which the legislature has passed and sent to Washington Governor Gary Locke for his signature. Late last week the legislature passed the \$23 billion state budget operating budget bill (Senate Bill 5405) and sent it to Locke who has indicated he will sign the lean operating budget to bridge a budget gap of \$2.4 billion. The budget has no general tax increases and eliminates 1,150 state jobs, withholds pay raises for state employees and veteran teachers, increases the share public employees pay for their health insurance, and reduces the number of people served by the Basic Health Plan insurance program and Children's Health Insurance Program.

Although the budget plan originally submitted by the Governor called for no general tax increases, several times he called for additional "sin tax" increases during the legislative session and near the end of the regular session he specifically called for beer and sin tax increases. Additionally, during the session a bill was introduced calling for a 3.92 percent beer tax increase. After an immediate intense lobbying effort by wholesalers, microbreweries and major breweries, the bill was never scheduled for a hearing. In fact, several of the House sponsors asked to have their names removed from the legislation.

Although the legislature began a second special session today in Olympia, the issues are primarily tax incentives for the Boeing Aircraft Company to have the new 7E7 aircraft built here. Among the tax breaks considered is a major revision of the state's unemployment insurance system.

The budget bill did contain one revenue enhancement. A surcharge of \$0.42 per liter on all retail sales of spirits at state and agency stores was added to raise \$14 million for the 2003-05 biennium. Excluded are retail licensee purchases, military and tribal sales. The increase takes effect no later than September 1 this year. In unusual language the budget bill says, "To the extent that a lesser surcharge is sufficient to raise \$14 million, the Liquor Board may reduce the amount of the surcharge." The bill also says, the Board shall remove the surcharge once it generates \$14 million, but no later than June 30, 2005." That is the end of Washington's fiscal year.

Wholesalers will receive a complete legislative report at our 2003 legislative session this Friday at our General Membership Meeting in Chelan, Washington at Campbell's Resort.

Briefly, this was a great session for wholesalers in Washington. In addition to defeating a huge beer tax increase, the legislature: 1) passed a strong beer sales bill for grocery stores which we supported, 2) defeated a bill which would have given beer and wine specialty shop owners a direct importers license for beer and wine which we opposed, 3) passed a municipal tax fairness bill relative to B & O tax payments which we have supported for several years, and 4) defeated an 80 percent fund raid on litter tax funds which we opposed.

6/11/03

EXHIBIT NO. 232 Date: 6/11/03
 Deposition of Phillip Wayt
 CONNIE CHURCH, Court Reporter

WBW-05848

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Also, of primary focus for the Association was passage of legislation to re-enact our beer franchise law, which in addition to wine franchise provisions in our law, was found unconstitutional by the Washington Supreme Court. We passed that legislation (Senate Bill 5994) unanimously in both the House and Senate and it was signed into law by the Governor. As you know, shortly thereafter the Supreme Court, following our motion and brief asking for reconsideration, decided they did not mean to throw out the entire law and left the beer franchise law intact.

Here's more detail on our primary bills of interest this year.

Strong Beer- SSB 5051

Effective July 1st, 2003. Strong Beer can be distributed by wholesalers and sold at retail in specialty shops and grocery stores. Strong Beer may not be sold at farmers markets. The liquor control board will be required to study the impacts of Strong Beer sales and report to the legislature by December 1, 2004.

Ergonomics - ESB 5161

The bill, prime sponsored by Senator Mike Hewitt moved quickly through the Senate in the first weeks of session but was blocked by Rep. Steve Conway (Tacoma) chair of the Commerce and Labor Committee in the House. The bill was not placed on the list of bills to be worked during the special session, and appears dead for the year. The Building Industry Association of Washington is collecting signatures for Initiative 841 which would repeal current rules and limit future rule making related to ergonomics. There will be more information about Initiative 841 to follow.

Sunday Sales - SSB 5982

Several concepts regarding sales at liquor stores on Sundays have surfaced during this year's session. The latest plan allows 20 state stores to open on Sunday on September 1, 2003 and allows all agency vendor stores to open on Sunday's at their discretion. The Senate passed the bill to the House on a vote of 28-18-5. At midnight on the 30th day of the 1st special session with the bill having failed to come up for a vote in the House, by rule, was sent back to the Senate. The liquor lobby has kept this issue alive throughout the first special session and will make every attempt to pass this issue in additional special sessions.

Wine Importer/Specialty Shop License - SB 5825

This bill would have allowed a wine importer licensee to have an interest directly or indirectly in a beer and/or wine specialty shop licensee. The bill, which died almost as soon as it was introduced after opposition by WBWWA, was proposed by Senator Ken Jacobsen at the request of a constituent. The bill which would have significantly undermined the three tier system, could have been the vehicle that set in motion wide scale change to the alcohol beverage distribution business as we know it. Again, thanks to the efforts of Senators Mike Hewitt and Jim Honeyford the bill never was given a hearing.

Municipal Tax Fairness - EHB 2030

After being signed by the Governor the new law specifically requires the 37 cities of the State that collect B&O tax to adopt a uniform and consistent method for collecting that tax. Under the current system a city can collect B&O tax on the sales of any business even if that business isn't located in that city. The city was allowed to do this if the business is located in a municipality that does not collect B&O tax. What makes matters worse is even if you did only a fraction of your business in that city they can collect tax based on 100% of your business. The bill that was supported by Governor Locke requires cities that impose B&O tax to adopt a set of uniform standards by 2005. By 2008 those cities must phase in a method for apportionment. This formula would allow a business to only pay B&O tax on the percent of business done in each city.

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Streamlined Sales Tax - SB 5783

An effort was started in early 2000 by the Federation of Tax Administrators, the Multistate Tax Commission, the National Conference of State Legislatures, and the National Governors Association to simplify and modernize sales and use tax collection and administration. The effort is known as the Streamlined Sales Tax Project. The project seeks to incorporate uniform definitions within tax bases, simplify audit and administrative procedures, and explore emerging technologies to reduce the burdens of tax collection, for both main street and remote sellers. The Agreement allows food to be taxable or exempt, at the option of individual states. Washington currently exempts food. The Agreement's definition of food exempts bottled water, which is currently taxed in Washington. The Agreement allows soft drinks to be taxable or exempt, at the option of individual states. Washington currently taxes soft drinks. The Agreement's definition of soft drink includes juice drinks containing less than 50 percent fruit juice, which are currently exempt in Washington. The bill was signed by the Governor its implementation will be phased in over the next year.

Bottled Water: Sales of bottled water will no longer collect sales tax.

Juice Drinks with less than 50% fruit juice: Sales tax will be collected, while currently it is not.

Juice Drinks with more than 50% fruit juice: Sales tax will not be collected as it is currently not.

Farmers Market Beer & Wine Sales

The new laws require that beer and wine sold at farmers markets be produced in Washington and that only Washington micro breweries and wineries are allowed to participate. The farmers markets are not allowed to sample product and must be approved by the Liquor Control Board. The Wholesalers Association amended the bill so that wineries would not be allowed to distribute product from these locations and included language that provided that wineries and breweries could not sell product out of the back of a truck on a street corner while claiming that they were a farmers market. The bills had bipartisan unanimous support in both houses, both bills have been signed by the Governor, and are effective July 27, 2003. The Liquor Board is now drafting rules to implement the legislation.

Liquor Privatization - ESSB 5522

Several different concepts and proposals about privatization were floated by Senator Tim Sheldon (D-Potlatch) this year. They ranged from all out privatization, to a phased in model where state stores were eventually replaced with agency vendor stores. Neither of these proposals gained much traction in the House where Representative Steve Conway who sided with the liquor store union employees refused to give any proposals a hearing. There was also many questions raised about how to make up for the loss of liquor sales revenue that is collected by the state on top of the tax. Senator Sheldon has vowed to pursue this issue in the future.

Litter Tax Bills:

EHB 1037 Retail sales of food and beverage from the litter tax

This bill supported by the Restaurant Association exempts retail sales of food and beverage that is consumed indoors on the sellers premises from the litter tax. The bill became effective May 7, 2003.

HB 1450 Operation Budget for Fish and Wildlife

Buried deep in this bill was a raid of 80% of the litter tax money collected by the state that was to be dedicated to the state toxics control account. The bill didn't go anywhere, and no raid of the litter tax money was included in the final budget.

Four State Convention Information coming this month

6/11/03

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Yet this month WBWWA will mail out complete registration for our upcoming Washington, Oregon, Idaho and Montana Beer & Wine Distributors Convention at the Coeur d'Alene Resort in Coeur d'Alene, Idaho.

The event begins with an opening reception on Sunday, September 14 and ends with golf on Wednesday morning Sept. 17. Because of the location we expect early arrivals on Saturday, Sept. 13. All suites and meeting space are held by the convention at this time. Following our mailing, suppliers will be able to reserve hospitality rooms and set up receptions, etc.

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6/11/03

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